IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

CRL.A.No. 919 of 2007()

AGAINST THE JUDGEMENT/ORDER IN CRLP.294/2007 Dated 28/05/2007
CC.705/2002 of JUDL.MAGISTRATE OF FIRST CLASS COURT, PAYYANNUR

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APPELLANT: COMPLAINANT:

KHOULATH ACHUMMANTAKATH,
D/O.P.T.KUNHAMMED, 'BEEVI MANZIL',
P.J.H.S. ROAD, PUTHIYANGADI, P.O.MADAYI.

BY ADV. SRI.T.A.SHAJI
SMT.T.V.NEEMA

RESPONDENTS/ ACCUSED 1,2,4 TO 6 & STATE:
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1. ABDUL SALAM SOOPIKKADKATH,
S/O.AYSHA, 'AYSHA MANZIL', NEAR POST OFFICE, P.O.VENGARA.

2. AYSHA SOOPPIKKADAKATH,
'AYSHA MANZIL', NEAR POST OFFICE,
P.O.VENGARA.

3. ABDUL KHADER, S/O.AYSHA, 'AYSHA MANZIL',
NEAR POST OFFICE, P.O.VENGARA.

4. RABIYA BADAR, SOOPPIKKADAKATH,
D/O.AYSHA, 'AYSHA MANZIL',
NEAR POST OFFICE, P.O.VENGARA.

5. ZUBAIDA KAREEM, D/O.AYSHA,
SOOPPIKKADAKATH, 'AYSHA MANZIL',
NEAR POST OFFICE, P.O.VENGARA.

6. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

R1 TO R5 BY ADV. SRI.M.SASINDRAN
R6 BY SMT.K.R.DEEPA

THIS CRIMINAL APPEAL HAVING COME UP FOR ADMISSION ON 17/12/2007, ALONG WITH MAT.APPEAL.NO.107/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID,JJ.

CRL. APPEAL NO. 919 OF 2007

Dated this the 17th day of December, 2007

JUDGMENT

Harun-Ul-Rashid, J.

The appellant is the complainant in C.C. No.705 of 2002 on the file of the Judicial First Class Magistrate's Court, Payyannur. The case was taken on file as a protest complaint as the earlier complaint filed by the appellant was referred for investigation and a crime was registered in which the police filed refer report. The allegation in the complaint is that respondents 1 to 5 and another committed offence punishable under Section 498 A read with Section 34 I.P.C.

2. The first respondent in the appeal is the husband of the appellant. The marriage between the appellant and the first respondent was solemnized on 21.5.1998 according to the customary rites prevalent in the community. According to the appellant/wife, she was put to untold miseries and harassment by her husband and his relatives demanding more money as dowry.

3. Today, we have dismissed Mat. Appeal No.107 of 2007 filed by the first respondent herein seeking to set aside the judgment in O.P.

No.242 of 2004 by which the Family Court, Kannur allowed the petition filed by the wife for dissolution of marriage.

4. The evidence of the appellant and another witness who were examined as PWs.1 and 2 respectively were recorded under Section 442 Cr.P.C. and charges were framed against the accused for the offence mentioned above. No oral or documentary evidence was adduced on the side of the defence. On going through the evidence of PWs.1 and 2, the learned Magistrate noted that the evidence of PW.2 was not convincing and that his evidence does not support the case of PW.1 in material particulars. Therefore, after considering the entire evidence, the court below rightly held that the complainant had not succeeded in proving the allegations against the accused.

We find no reason to interfere with the finding of the learned Magistrate. Hence, the appeal is dismissed.

(KURIAN JOSEPH, JUDGE)

(HARUN-UL-RASHID, JUDGE)

sp/

KURIAN JOSEPH &
HAURN-UL-RASHID, JJ.

L.A.A.NO

JUDGMENT

4TH DECEMBER, 2007